

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: County Auditors, County Assessors, and County Treasurers

FROM: Timothy J. Rushenberg, Commissioner

DATE: January 20, 2009

SUBJECT: Deduction for Model Residences

## **Purpose**

The purpose of this memorandum is to provide guidance to county auditors and assessors with respect to the model residence deduction added by HEA 1164 (2008) (P.L. 70-2008, Sec. 1) (IC 6-1.1-12.6). In general, a qualified owner of a model residence is entitled to a deduction in the amount of fifty percent (50%) of the assessed value of the model residence. The deduction applies only to a model residence that is first assessed as a partially or a fully completed structure for the assessment date in 2009 or a later year.

## **Qualification as a Model Residence for Purposes of the Deduction**

For purposes of the deduction, “model residence” means real property that consists of a single family residence, single family townhouse, or single family condominium unit that has never been occupied as a principal residence, and is used for display or demonstration to prospective buyers or lessees for potential acquisition or lease of a similar type of residence, townhouse, or condominium unit on the same or other property.

The term “model residence” does not include any of the land on which the residence, townhouse, or condominium unit is located. Moreover, real property used by the owner as the owner’s regular office space is not considered a model residence for purposes of the deduction. However, an owner who simply uses a garage or other space in the real property to store or display materials used to promote the real property or similar properties, or as a space for meetings with prospective buyers or lessees, will not lose the deduction based solely on such use.

## **Number of Deductions for a Particular Model Residence**

The deduction is available on a particular model residence for a total of not more than four assessment dates as follows: (a) one assessment date for which the model residence is assessed as a partially completed structure, (b) the assessment date for which the model residence is first assessed as a fully completed structure, and (c) the two assessment dates that immediately succeed the date in (b).

### **Change of Ownership**

If the ownership of a model residence changes, and the new owner continues to use the property as a model residence, the new owner may claim the deduction, but the deduction may not be applied for an assessment date other than the assessment dates to which the deduction could have applied if ownership had not changed. A person who claims the deduction must provide the county auditor with a notice that informs the auditor of the transfer of the ownership of the model residence, and indicates whether the new owner is eligible to receive the deduction. The notice must be submitted to the county auditor at the same time that a sales disclosure form is filed.

The deduction for a model residence for a particular assessment date is terminated if the model residence is sold after the assessment date of that year but before January 1 of the following year to a person who does not continue to use the real property as a model residence. In such case, the county auditor must immediately mail notice of the termination to the former owner, the property owner, and the township assessor or the county assessor if there is no township assessor. The county auditor must remove the deduction from the tax duplicate and must notify the county treasurer of the termination of the deduction.

### **Number of Model Residence Deductions for an Assessment Date**

With the exception of members of an affiliated group, a property owner is entitled to a deduction for an assessment date on not more than three (3) model residences in Indiana. The auditor of the county with whom an application for the deduction is filed must immediately prepare and transmit a copy of the application to the auditor of any other county if the property owner that claims the deduction owns or is buying a model residence located in another county. The auditor of the other county must note on the copy of the statement whether the property owner has claimed a deduction for the current year for a model home in that county. That county auditor must then return the copy of the application to the auditor who sent the copy in the first instance.

The aggregate number of deductions claimed for a particular assessment date by the owners of model residences who are part of an affiliated group may not exceed three (3) deductions. For purposes of the deduction, the term “affiliated group” means any combination of the following:

- a. An affiliated group as provided in Section 1504 of the Internal Revenue Code except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code must be determined using fifty percent (50%) instead of eighty percent (80%) or a relationship described in Section 267(b)(11) of the Internal Revenue Code.
- b. Two (2) or more partnerships as defined in IC 6-3-1-19, including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in a. above, as determined in the rules adopted by the Department of Local Government Finance.

### **Application for Deduction & County Officials Duties**

A property owner who qualifies for the deduction must file a State Form 53812 with the county auditor to claim the deduction for each assessment date for which the property owner wishes to receive the deduction. The assessing official must verify the application. After the application has been verified, the county auditor must make the deductions and notify the county property tax assessment board of appeals of all approved deductions. The application may be found on the Department of Local Government Finance web site under the Forms heading at: <http://www.in.gov/dlgf/>.

### **Deduction not Allowed for Model Residence in Allocation Area**

A property owner may not receive a deduction with respect to a model residence located in an allocation area as defined in IC 6-1.1-21.2-3.

### **Limit of One Deduction Per Model Home per Year**

A property owner that qualifies for the model home deduction and another deduction with respect to the same model residence may not receive a deduction under both statutes for the model residence for that year.

### **Contact Information**

Questions may be directed to Barry Wood, Assessment Director at (317) 232-3762 or [bwood@dlgf.in.gov](mailto:bwood@dlgf.in.gov); or Cathy Wolter, Staff Attorney at (317) 233-4361 or [cwolter@dlgf.in.gov](mailto:cwolter@dlgf.in.gov).

### **Indiana Code**

#### **IC 6-1.1-12.6**

Chapter 12.6. Deduction for Model Residence  
*Effective 1-1-2009.*

#### **IC 6-1.1-12.6-0.5**

**"Affiliated group"**

*Effective 1-1-2009.*

Sec. 0.5. As used in this chapter, "affiliated group" means any combination of the following:

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%)) or a relationship described in Section 267(b)(11) of the Internal Revenue Code.

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department.

*As added by P.L.70-2008, SEC.1.*

## **IC 6-1.1-12.6-1**

### **"Model residence"**

#### ***Effective 1-1-2009.***

Sec. 1. (a) As used in this chapter, "model residence" means real property that consists of a single family residence, single family townhouse, or single family condominium unit that:

- (1) has never been occupied as a principal residence; and
- (2) is used for display or demonstration to prospective buyers or lessees for purposes of potential acquisition or lease of a similar type of residence, townhouse, or condominium unit on:

- (A) the same property; or

- (B) other property.

(b) The term does not include any of the land on which the residence, townhouse, or condominium unit is located.

(c) Real property described in subsection (a) that is used by the owner as the owner's regular office space may not be considered a model residence for purposes of this chapter. However, this subsection does not prohibit the use of a garage or other space in the real property:

- (1) to store or display material used to promote the real property or other similar properties; or

- (2) as a space for meetings with prospective buyers or lessees.

*As added by P.L.70-2008, SEC.1.*

## **IC 6-1.1-12.6-2**

### **Applicability; amount of deduction; termination of deduction on sale of residence**

#### ***Effective 1-1-2009.***

Sec. 2. (a) This section applies only to a model residence that is first assessed as:

- (1) a partially completed structure; or

- (2) a fully completed structure;

for the assessment date in 2009 or a later year.

(b) Except as provided in subsection (c) and sections 4, 5, and 6 of this chapter, and subject to sections 7 and 8 of this chapter, an owner of a model residence is entitled to a deduction from the assessed value of the model residence in the amount of fifty percent (50%) of the assessed value of the model residence for the following:

- (1) Not more than one (1) assessment date for which the model residence is assessed as a partially completed structure.

- (2) The assessment date for which the model residence is first assessed as a fully completed structure.

- (3) The two (2) assessment dates that immediately succeed the assessment date referred to in subdivision (2).

(c) A deduction allowed for a model residence under this chapter for a particular assessment date is terminated if the model residence is sold:

- (1) after the assessment date of that year but before January 1 of the following year; and

- (2) to a person who does not continue to use the real property as a model residence.

The county auditor shall immediately mail notice of the termination to the former owner, the property owner, and the township assessor. The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction.

*As added by P.L.70-2008, SEC.1.*

**IC 6-1.1-12.6-3****Statement to claim deduction and information required; filing requirement; county auditor duties**

*Effective 1-1-2009.*

Sec. 3. (a) A property owner that qualifies for the deduction under this chapter must file a statement containing the information required by subsection (b) with the county auditor to claim the deduction for each assessment date for which the property owner wishes to receive the deduction in the manner prescribed in rules adopted under section 9 of this chapter. The township assessor shall verify each statement filed under this section, and the county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;  
under this section.

(b) The statement referred to in subsection (a) must be verified under penalties for perjury and must contain the following information:

(1) The assessed value of the real property for which the person is claiming the deduction.

(2) The full name and complete business address of the person claiming the deduction.

(3) The complete address and a brief description of the real property for which the person is claiming the deduction.

(4) The name of any other county in which the person has applied for a deduction under this chapter for that assessment date.

(5) The complete address and a brief description of any other real property for which the person has applied for a deduction under this chapter for that assessment date.

*As added by P.L.70-2008, SEC.1.*

**IC 6-1.1-12.6-4****Limitation of deduction to three residences; procedure for enforcement**

*Effective 1-1-2009.*

Sec. 4. (a) Subject to section 8 of this chapter, a property owner is entitled to a deduction under this chapter for an assessment date for not more than three (3) model residences in Indiana.

(b) The auditor of a county (referred to in this section as the "first county") with whom a statement is filed under section 3 of this chapter shall immediately prepare and transmit a copy of the statement to the auditor of any other county (referred to in this section as the "second county") if the property owner that claims the deduction owns or is buying a model residence located in the second county.

(c) The county auditor of the second county shall note on the copy of the statement whether the property owner has claimed a deduction for the current year under section 3 of this chapter for a model residence located in the second county. The county auditor shall then return the copy of the statement to the auditor of the first county.

*As added by P.L.70-2008, SEC.1.*

**IC 6-1.1-12.6-5****Deduction inapplicable in allocation area**

*Effective 1-1-2009.*

Sec. 5. A property owner may not receive a deduction under this chapter with respect to a model

residence located in an allocation area (as defined in IC 6-1.1-21.2-3).

*As added by P.L.70-2008, SEC.1.*

#### **IC 6-1.1-12.6-6**

##### **Prohibition against application of the deduction and a deduction under another statute**

*Effective 1-1-2009.*

Sec. 6. A property owner that qualifies for a deduction for a year under this chapter and another statute with respect to the same model residence may not receive a deduction under both statutes for the model residence for that year.

*As added by P.L.70-2008, SEC.1.*

#### **IC 6-1.1-12.6-7**

##### **Application of the deduction on change of ownership**

*Effective 1-1-2009.*

Sec. 7. (a) If ownership of the model residence changes:

(1) a new owner that continues to use the property as a model residence may claim the deduction under this chapter; and

(2) the deduction may not be applied for an assessment date other than the assessment dates to which the deduction could have applied under section 2 of this chapter if ownership had not changed.

(b) A person who owns a model residence and claims a deduction under this chapter shall provide to the county auditor a notice that:

(1) informs the auditor of a transfer of the ownership of the model residence; and

(2) indicates whether the new owner is eligible to receive a deduction under this chapter.

The notice required by this subsection must be submitted to the county auditor at the same time that a sales disclosure form is filed under IC 6-1.1-5.5.

*As added by P.L.70-2008, SEC.1.*

#### **IC 6-1.1-12.6-8**

##### **Affiliated group limited to three deductions**

*Effective 1-1-2009.*

Sec. 8. The aggregate number of deductions claimed under this chapter for a particular assessment date by the owners of model residences who are a part of an affiliated group may not exceed three (3).

*As added by P.L.70-2008, SEC.1.*

#### **IC 6-1.1-12.6-9**

##### **Adoption of rules by the department of local government finance**

*Effective 1-1-2009.*

Sec. 9. The department of local government finance shall adopt rules under IC 4-22-2 to implement this chapter.

*As added by P.L.70-2008, SEC.1.*